



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Ecology AO # 13-07

- ☒ **Preproposal Statement of Inquiry was filed as WSR 13-19-048 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____ ; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject) Dangerous Waste Regulations, Chapter 173-303 WAC

Hearing location(s): See Attachment A

Date: September 24, 2014 Time: 2 pm

Date of intended adoption: December 17, 2014
 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Robert Rieck
 Address: Department of Ecology
 PO Box 47600
 Olympia, WA. 98504-7600
 e-mail dwrn@ecy.wa.gov
 fax (360)407-6715 by (date) October 1, 2014

Assistance for persons with disabilities: Contact

Nancy Farman (360) 407-0272 by September 17, 2014

Persons with hearing loss, call (TTY) 711. Persons with a speech disability, call (877) 833-6341

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Ecology is proposing to amend Chapter 173-303 WAC. This rule making would bring the state regulations current with federal requirements, and will update other state-initiated requirements, including the Chemical Test Methods guidance. See "Purpose of the proposal" Attachment B for more information.

Reasons supporting proposal:

This rule making is necessary to implement the federal hazardous waste program in Washington State. As EPA periodically updates their regulations, the state is required to amend the Dangerous Waste Regulations to keep our rules current with the federal program and maintain authorization. By maintaining our authorization, the regulated community only has to follow state regulations and not the federal hazardous waste rules. These changes will result in easier compliance by the regulated community.

Statutory authority for adoption: Chapter 70.105 RCW

Statute being implemented: Chapter 70.105 RCW

Is rule necessary because of a:

- Federal Law? ☒ Yes ☐ No
 Federal Court Decision? ☐ Yes ☐ No
 State Court Decision? ☐ Yes ☐ No
 If yes, CITATION:
 40 CFR Parts 260-279

DATE 8/18/2014

NAME (type or print)
 Polly Zehm

SIGNATURE

TITLE
 Department of Ecology, Deputy Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: August 18, 2014
TIME: 4:07 PM

WSR 14-17-083

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Robert Rieck	Lacey, WA	360-407-6751
Implementation....K Seiler	Lacey, WA	360-407-6702
Enforcement.....K Seiler	Lacey, WA	360-407-6702

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☒ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Robert Rieck

Address: Department of Ecology

PO Box 47600

Lacey, WA 98504-7600

phone (360) 407-6751

fax (360)407-6715

e-mail rori461@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Robert Rieck

Address: Department of Ecology

PO Box 47600

Lacey, WA 98504-7600

phone (360) 407-6751

fax (360)407-6715

e-mail rori461@ecy.wa.gov

☐ No: Please explain:

Attachment A – Public Hearing Time and Location

Ecology will hold one public hearing on this rule proposal. The hearing will begin with a short presentation followed by a question and answer (Q&A) session. Testimony will start at the end of the Q&A session.

Date: September 24, 2014

Time: 2:00 p.m.

Location: Department of Ecology
Headquarters
300 Desmond Drive SE
Lacey, WA 98503

Webinar: Ecology is also offering the presentation, Q&A session, and public hearing through a webinar. A webinar is an on-line meeting forum that you can join from any computer using internet access. To participate and provide comments through the webinar, you also need to have a phone or a computer with phone modem capability. For more information about the webinar and instructions on how to join and participate through the webinar, visit:

http://www.ecy.wa.gov/programs/hwtr/laws_rules/DWRuleMaking.html

Comments: During the public hearing, Ecology will accept comments:

1. At the hearing location; and
2. Through the webinar.

Attachment B: Purpose of the Proposal

Please review the proposed rule language for all of the proposed changes, including minor clarifications and editorial and technical corrections.

Proposed Amendments related to Federal rules:

One purpose of this rule proposal is to update the dangerous waste regulations to be current with the federal hazardous waste program. Ecology is proposing to adopt several federal hazardous waste rules into the state Dangerous Waste Regulations, including a new rule simplifying waste management at university and college laboratories, changes to import/export rules, incorporating corrections to the United States Environmental Protection Agency (EPA) hazardous waste regulations, and a few other new, minor federal rules. See below for more details. The United States Environmental Protection Agency (EPA) federal register summaries of these rules (available in the Rule Preamble Summary document) and the proposed rule language are available at:

http://www.ecy.wa.gov/programs/hwtr/laws_rules/DWRuleMaking.html

Federal hazardous waste rules proposed for adoption include:

- 1) Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities. December 1, 2008 - 73 FR 72912.
- 2) Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities. December 20, 2010 – 75 FR 79304.
- 3) Revisions to the Requirements for: Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes. January 8, 2010 – 75 FR 1236.
- 4) Hazardous Waste Technical Corrections and Clarifications Rule. March 18, 2010 – 75 FR 12989 and June 4, 2010 – 75 FR 31716.
- 5) Hazardous Waste Technical Corrections and Clarifications Rule. April 13, 2012 – 77 FR 22229.
- 6) Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts From the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances. December 17, 2010 – 75 FR 78918.

- 7) Hazardous Waste Manifest Printing Specifications Correction Rule. June 22, 2011 – 76 FR 36363. 8) Land Disposal Restrictions: Revision of the Treatment Standards for Carbamate Wastes. June 13, 2011 – 76 FR 34147.

Other proposed state-initiated amendments:

Ecology is proposing other state-initiated amendments not related to the federal rules listed above.

Significant changes are described below. The proposed rule language and a *Rule Preamble Summary* is available on Ecology's website at: http://www.ecy.wa.gov/programs/hwtr/laws_rules/DWRuleMaking.html

WAC 173-303-073(2)(e)(v). A thirty day time limit is established for special waste held at solid waste transfer stations. This will reduce chances of pollution resulting from storage of special waste at transfer stations.

WAC 173-303 sections 200, 400, 64690, 650, 660, 665 and 806. Adds the requirement that facilities use an “independent qualified registered professional engineer” instead of a “qualified professional engineer” (or similar language) for regulatory certifications. These changes provide consistency throughout the regulations for the regulated community and promote quality assurance at treatment, storage and disposal facilities.

WAC 173-303 sections 400, 645, 800 and 806. Adopt rules allowing use of enforceable documents in lieu of RCRA post closure permits. This option provides an easier, more efficient regulatory process for facilities entering post closure while maintaining appropriate agency oversight.

WAC 173-303-620. Several areas of the financial assurance rule are being changed. Ecology is proposing to raise the minimum tangible net worth requirement from \$20 million to \$25 million to qualify for use of the financial test or corporate guarantee option. We are also increasing the minimum financial assurance amounts for liability coverage. Both of these changes are made to keep pace with inflation.

WAC 173-303-64620(5). This change adds rules for financial assurance at corrective action sites. This rule will codify existing EPA guidance and current Ecology practice as it is used in Agreed Orders and Consent Decrees. No federal or state financial assurance rules currently exist for corrective action sites, and by creating these rules it will reduce negotiation time involved in establishing financial assurance.

WAC 173-303-905. This rule is being deleted because it is in conflict with the Public Records Act (Chapter 42.56 RCW) and is unnecessary.

Revisions to the Chemical Test Methods Guidance

Ecology is also proposing changes to the Chemical Test Methods Guidance and is accepting comments on this document along with comments on the proposed rule. A copy of the proposed revisions to the guidance is available on the rule-development website: http://www.ecy.wa.gov/programs/hwtr/laws_rules/DWRuleMaking.html